

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**TERRY HARRIS,**  
**Plaintiff,**

**VS.**

**JOSEPH BORG,**  
**Defendant.**

**CASE NO.: 2:05CV1083-WKW**

## **DEFENDANT’S MOTION FOR ENTRY OF JUDGMENT**

Comes now the Defendant, Joseph Borg, and requests that the Court enter judgment in his favor in the above-styled cause. As grounds therefore, Defendant shows as follows:

1. The Defendant filed his Motion for Summary Judgment and Brief, with supporting affidavits and exhibits, on May 30, 2007 [Doc. 50] as required by the Court in its Order of May 23, 2007 [Doc. 49].
2. The Court's order provided that the Plaintiff should respond by June 20, 2007 [Doc. 49].
3. The Plaintiff has failed to file any counter affidavits, documents, Response or Brief. As a consequence, Defendant's facts and assertions are unrefuted.
4. Approximately 5:45 pm on this date (6-25-07), after this motion had been prepared, Plaintiff's counsel called Defendant's counsel and requested that the Defendant agree that he have an additional week to respond. Defendant's counsel has no power to change the Court's schedule and did not consent. To the contrary, the Defendant opposes allowing the Plaintiff to file an untimely response.

WHEREFORE, this matter is ripe for resolution and the Defendant is entitled to Summary Judgment as to all claims.

**/s/ Bruce J. Downey, III**  
**BRUCE J. DOWNEY, III**  
 Attorney for Defendant  
 Joseph P. Borg, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 25<sup>th</sup> day of June, 2007, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Henry L. Penick, Esq.  
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/s/ Bruce J. Downey, III  
OF COUNSEL